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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Harness Dickey & Pierce PLC
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EXAMINER

PETERSON, KENNETH E

ART UNIT

PAPER NUMBER

3724

19

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/698,920

Applicant(s)

MEREDITH ET AL.

Examiner

Kenneth E Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Applicant's IDS, received 04 November 02, has been considered. Also, an update search has yielded additional references. Also, recent board decisions have stated that background art mentioned in the arguments section of an examiner's answer is given no weight. Based upon these three events, it is clear that the prosecution is best served by re-opening and providing a new final rejection incorporating the new art and the art that supports the Examiner's taking of Official Notice. The final rejection mailed 15 October 2001 is withdrawn in favor of the following final rejection, which is a better response to the amendment filed 13 August 2001.

2. Claims 46-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 1 of claim 46, the term "support" lacks antecedent basis. It is not clear what element is being referred to.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 37,38 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumasaka et al.'416 in view of Cotton et al.'022 and Brundage et al.'233 or Emmons '607.

Kumasaka shows a miter saw with most of the recited limitations including a fixed guard (4) and a movable guard (9).

Kumasaka lacks an arbor shaft cover. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Kumasaka by providing an arbor shaft cover, as taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft. Given Kumasaka's structure, one of ordinary skill would obviously place the arbor shaft cover on the fixed guard.

Kumasaka's movable guard is biased downward by a spring (lines 23-27, column 3), but it is not disclosed if this is a linear spring or a torsional spring. However, it is well known for the movable guard of a miter saw to be powered by a torsional spring as taught by Brundage (149, figure 12) or Emmons (46). Brundage's and Emmon's torsion springs are positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Kumasaka by making his spring torsional (if it wasn't already), as taught by Brundage or Emmons, since a torsional spring is a functional equivalent known for the same purpose, as per MPEP 2144.06.

5. Claims 37,38 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumasaka et al.'416 in view of Cotton et al.'022 and Dehari et al.'866.

Kumasaka shows a miter saw with most of the recited limitations including a fixed guard (4) and a movable guard (9).

Kumasaka lacks an arbor shaft cover. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Kumasaka by providing an arbor shaft cover, as taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft. Given Kumasaka's structure, one of ordinary skill would obviously place the arbor shaft cover on the fixed guard.

Kumasaka's movable guard is biased downward by a spring (lines 23-27, column 3), but it is not disclosed if this is a linear spring or a torsional spring. However, it is well known for the movable guard of a miter saw to be powered by an offset torsional spring as taught by Dehari (20, via linkage system 17,18). It would have been obvious to one of ordinary skill in the art to have further modified Kumasaka by making his spring an offset torsional spring (if it wasn't already), as taught by Dehari, since an offset torsional spring is a functional equivalent known for the same purpose, as per MPEP 2144.06.

6. Claims 37,38 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brault et al.'042 in view of Cotton et al.'022 and Brundage et al.'233 or Emmons '607.

Brault shows a mitre saw with most of the recited limitations including a fixed guard, a movable guard and an arbor shaft cover as best seen in figure 1.

Brault's arbor shaft cover is not clearly pivotable out the way to expose the arbor shaft. However, Cotton shows that it is well known to employ a pivotable arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Brault using the arbor shaft cover taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft.

Brault is silent on what controls the motion of the movable guard. However, it is well known for the movable guard of a miter saw to be powered by a torsional spring as taught by Brundage (149, figure 12) or Emmons (46). Brundage's and Emmon's torsion springs are positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Brault by providing a pocketed torsional spring, as taught by Brundage or Emmons, in order to automatically bias the movable guard into the guarding position.

7. Claims 37,38 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brault et al.'416 in view of Cotton et al.'022 and Dehari et al.'866.

Brault shows a miter saw with most of the recited limitations including a fixed guard, a movable guard and an arbor shaft cover as best seen in figure 1.

Brault's arbor shaft cover is not clearly pivotable out the way to expose the arbor shaft. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Brault using the arbor shaft cover taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft.

Brault is silent on what controls the motion of the movable guard. However, it is well known for the movable guard of a miter saw to be powered by an offset torsional spring as taught by Dehari (20, via linkage system 17,18). It would have been obvious

to one of ordinary skill in the art to have further modified Brault by providing an offset torsional spring, as taught by Dehari, in order to automatically bias the movable guard into the guarding position.

8. Claims 37,38,45,46 and 53-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumasaka et al.'416 in view of Cotton et al.'022 and Itzov '720.

Kumasaka shows a miter saw with most of the recited limitations including a fixed guard (4) and a movable guard (9).

Kumasaka lacks an arbor shaft cover. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Kumasaka by providing an arbor shaft cover, as taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft. Given Kumasaka's structure, one of ordinary skill would obviously place the arbor shaft cover on the fixed guard.

Kumasaka's movable guard is biased downward by a spring (lines 23-27, column 3), but it is not disclosed if this is a linear spring or a torsional spring. However, it is well known for the movable guard of a miter saw to be powered by an offset torsional spring as taught by Itzov (674, via linkage 642). Itzov's torsion spring is positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Kumasaka by making his spring torsional (if it wasn't already), as taught by Itzov, since a torsional spring is a functional equivalent known for the same purpose, as per MPEP 2144.06.

Kumasaka's miter saw is not a *compound* miter saw having a sliding drive support. However, Itzov shows the commonness of compound miter saws (see sliding drive support 298). It would have been obvious to one of ordinary skill in the art to have

transformed Kumasaka's miter saw into *compound* miter saw, as taught by Itzov, in order to be able to cut wider workpieces.

9. Claims 37,38,45,46 and 53-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itzov '720 in view of Cotton et al.'022.

Itzov shows a compound miter saw with most of the recited limitations including a fixed guard (618), a movable guard (622) and an arbor shaft cover (as seen in figure 1). Itzov shows an offset torsional spring (674, via linkage 642). Itzov's torsion spring is positioned in a pocket defined by the fixed and movable guards.

Itsov's arbor shaft cover is not clearly pivotable away to access the arbor shaft. However, Cotton shows that it is well known to employ a pivotable arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Itzov making his arbor shaft cover pivotable out of the way, as taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft.

10. Claims 37-52,54 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf et al.'309 in view of Cotton et al.'022 and Brundage et al.'233 or Emmons '607.

Stumpf shows a compound miter saw with most of the recited limitations including a fixed guard and an outside movable guard (18).

Stumpf lacks an arbor shaft cover. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Stumpf by providing an arbor shaft cover, as taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy

access to the shaft. Given Stumpf's structure, one of ordinary skill would obviously place the arbor shaft cover on the fixed guard.

Stumpf's movable guard appears to be manually operated, rather than spring operated. However, it is well known for the movable guard of a miter saw to be powered by a torsional spring as taught by Brundage (149, figure 12) or Emmons (46). Brundage's and Emmon's torsion springs are positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Stumpf by providing a torsional spring, as taught by Brundage or Emmons, in order to automatically bias the movable guard into the guarding position.

11. Claims 37,38,45,46 and 53-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brault et al.'042 in view of Cotton et al.'022 and Itzov '720.

Brault shows a mitre saw with most of the recited limitations including a fixed guard, a movable guard and an arbor shaft cover as best seen in figure 1.

Brault's arbor shaft cover is not clearly pivotable out the way to expose the arbor shaft. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Brault using the arbor shaft cover taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft.

Brault is silent on what controls the motion of the movable guard. However, it is well known for the movable guard of a miter saw to be powered by an offset torsional spring as taught by Itzov (674, via linkage 642). Itzov's torsion spring is positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Brault by providing an offset torsional

spring in the guard pocket, as taught by Itzov, in order to automatically bias the movable guard into the guarding position.

Brault's miter saw is not a *compound* miter saw having a sliding drive support. However, Itzov shows the commonness of compound miter saws (see sliding drive support 298). It would have been obvious to one of ordinary skill in the art to have transformed Brault's miter saw into *compound* miter saw, as taught by Itzov, in order to be able to cut wider workpieces.

12. Claims 37-52,54 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brault et al.'042 in view of Cotton et al.'022, Stumpf '309 and Brundage et al.'233 or Emmons '607.

Brault shows a mitre saw with most of the recited limitations including a fixed guard, a movable guard and an arbor shaft cover as best seen in figure 1.

Brault's arbor shaft cover is not clearly pivotable out the way to expose the arbor shaft. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Brault using the arbor shaft cover taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft.

Brault is silent on what controls the motion of the movable guard. However, it is well known for the movable guard of a miter saw to be powered by a torsional spring as taught by Brundage (149, figure 12) or Emmons (46). Brundage's and Emmon's torsion springs are positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Brault by providing a pocketed torsional spring, as taught by Brundage or Emmons, in order to automatically bias the movable guard into the guarding position.

Brault's miter saw is not a *compound* miter saw having a sliding drive support. However, Stumpf shows the commonness of compound miter saws (see sliding drive support 298). It would have been obvious to one of ordinary skill in the art to have transformed Brault's miter saw into *compound* miter saw, as taught by Stumpf, in order to be able to cut wider workpieces.

Brault's movable guard is on the *inside* of the fixed guard, as opposed to the outside. However, Stumpf shows that it is well known to have the guard on the outside. It would have been obvious to one of ordinary skill in the art to have had Brault's movable guard be on the outside of the fixed guard, as suggested by Stumpf, since this is deemed to be an art recognized equivalent known for the same purpose, as per MPEP 2144.06.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp
July 24, 2003



Allan N. Shoap
Supervisory Patent Examiner
Group 3700



KENNETH E. PETERSON
PRIMARY EXAMINER